

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7230

IN THE MATTER OF:

Served June 4, 2003

WILLIAM E. GILLISON, Trading as)	Case No. MP-2002-97
QUIANA TOURS, WMATC No. 290,)	
QUIANA TOURS, INC., and BARON)	
TRANSPORTATION, INC., WMATC)	
No. 33, Investigation of)	
Unauthorized Operations and)	
Violation of Regulations)	
Governing Vehicle Identification)	
and Leases)	

This matter is before the Commission on Baron's request filed May 2, 2003, for an extension of time to respond to Order No. 7066, served March 4, 2003.

I. REQUEST FOR EXTENSION OF TIME

Order No. 7066 assessed a civil forfeiture against Baron in the amount of \$6,250 for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order No. 6810. The order gave Baron thirty days to pay the forfeiture by money order, certified check, or cashier's check. Baron has yet to comply.

Order No. 7066 also gave Baron thirty days to show cause why the Commission should not assess a civil forfeiture for knowingly and willfully failing to remove all Regulation No. 61 markings from its buses in violation of Order No. 6763 and granted Baron fifteen days to request an oral hearing on that issue.

Baron requests additional time, without specifying how much time it needs, to craft a "complete response" to Order No. 7066, including additional time for requesting an oral hearing. Baron cites unspecified "exigent circumstances" as the basis for its request.

Inasmuch as Baron has yet to pay any portion of the forfeiture that is now more than a month past due, and considering that Baron has offered no explanation for its failure to timely request an extension and no indication of what evidence it might have to offer, if any, that would necessitate an oral hearing, we are disinclined to grant the extraordinary relief Baron now requests.

II. ASSESSMENT OF FORFEITURE

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement or order issued under

it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.¹

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.² The term "willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.³ Employee negligence is no defense.⁴

Order No. 6763 required Baron to remove from its vehicles the identification placed thereon pursuant to Commission Regulation No. 61 and to file a notarized affidavit with the Commission verifying compliance. Baron failed to file the necessary affidavit, and when Commission staff inspected Baron's vehicles in January of this year, it was apparent that Baron had removed some of the Regulation No. 61 markings but not all. The letters "WMATC" still remained. We will assess a forfeiture against Baron in the amount of \$250 for knowingly and willfully violating Order No. 6763.⁵

In the event Baron does not produce proof of the removal of all WMATC markings within thirty days, staff shall seek an injunction pursuant to Article XIII, Section 6, of the Compact restraining further violation of Order No. 6763.

THEREFORE, IT IS ORDERED:

1. That the request for extension of time is denied.

2. That the Commission hereby assesses a civil forfeiture against Baron in the amount of \$250 for knowingly and willfully violating Order No. 6763.

3. That Baron is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

4. That Baron shall produce proof of the removal of all WMATC markings within thirty days.

¹ Compact, tit. II, art. XIII, § 6(f)(i).

² In re Washington Exec. Sedan, Inc., & Global Express Limo. Serv., Inc., No. MP-02-03, Order No. 6772 (Aug. 13, 2002).


³ Id.

⁴ Id.

⁵ See In re Associated Community Servs., Inc., No. AP-02-88, Order No. 6839 (Oct. 3, 2002) (assessing \$250 for unauthorized display of WMATC indicia).

5. That upon Baron's failure to timely comply with the requirements of the preceding paragraph, staff shall seek an injunction pursuant to Article XIII, Section 6, of the Compact restraining further violation of Order No. 6763.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND MCDONALD:



William H. McGilvery
Executive Director

